

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2017-077-10240R

Parcel No. 060/06635-005-000

4125 E Garden Trust (Levi Freeman, Trustee),

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal was submitted for written consideration before the Property Assessment Appeal Board (PAAB) on November 21, 2017. Trustee Levi Freedman represented 4125 E Garden Avenue Trust. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

4125 E Garden Avenue Trust (Trust) owns a residential property located at 4125 E Garden Avenue, Des Moines. The property's January 1, 2017 assessment was set at \$115,500, allocated as \$23,700 in land value and \$91,800 in dwelling value. (Ex. A).

The Trust petitioned the Board of Review asserting its property is assessed for more than authorized by law and there was an error in the assessment, as provided under Iowa Code sections 441.37(1)(a)(1)(b & d). The Board of Review modified the assessment by reducing the property's dwelling value, resulting in a total assessed value of \$98,600.

The Trust reasserts its claim of overassessment to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Findings of Fact

The subject property is a one-story home built in 1959. It has 1086 square feet of gross living area; a full, unfinished basement; and a 2-car detached garage that was built in 1988. The site is 0.172 acres. (Ex. A). The Trust contends there was an error in

the assessment because the dwelling was not in good condition. However, the property record card lists the dwelling in below normal condition with a 4+00 grade (average quality) rating, which is consistent with the Trust's belief.

Freedman submitted a letter to PAAB stating the subject property was purchased in February 2017 for \$70,000. (Ex. 3). He noted repairs and remodeling were not completed on the subject property until after the purchase, and multiple offers were received prior to the sale. Because there was no significant change in the condition of the property between the date of sale and assessment date, Freedman believes the sale price represents the fair market value of the subject property as of January 1, 2017.

The Board of Review submitted a sale sheet for the subject property indicating the February 2017 purchase was an estate sale. (Ex. B).

The Board of Review also submitted an appraisal of the subject property completed by Brennan Parker of Central Iowa Appraisers, Des Moines. (Ex. E). Parker relied on the sales comparison approach to value. The appraisal has an effective date of March 2017, and concludes an opinion of value of \$134,000.

The appraisal states that the subject property has not been listed for sale on the DMAAR MLS in the last 12 months. It also notes the February 2017 purchase was the result of an estate sale and is "not a good indicator of its prior market value." (Ex. E, p. 2).

Freedman submitted a November 1, 2017 letter to PAAB in response to the appraisal. He explained improvements were completed on the subject property after its purchase and prior to the appraisal. In the appraisal Parker reported the kitchen has updated counters, the bath has been updated, and flooring has been re-finished or replaced. (Ex. E, p. 1). For this reason, Freedman does not believe the appraisal accurately reflects the value of the subject property as of January 1, 2017.

Analysis & Conclusions of Law

The Trust asserts its property is over assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Under section 441.21(1)(b), the subject property's purchase price is to be considered in arriving at its market value. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value. *Id.*

The Board of Review submitted an appraisal of the subject property, indicating a market value of \$134,000 as of March 2017. The Trust asserts the appraisal does not accurately reflect the market value of the subject as of January 1, 2017, because the improvements were completed after the February 2017 sale, and were considered improvements when appraising the subject property. PAAB agrees. However, the appraisal notes the February 2017 sale of the subject property was not a reliable indicator of value because it was an estate sale. As a result, we find the February 2017 sale does not provide a reliable indication of the property's fair market value.

The Trust did not submit any other evidence of the subject property's market value. Therefore, we conclude the Trust failed to support its claim that the subject property is assessed for more than authorized by law.

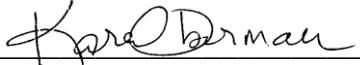
Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.


This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

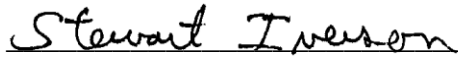
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Board Member



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

4125 E Garden Avenue Trust
C/O Levi Freeman, Trustee
4291 Beaver Avenue
Des Moines, Iowa 50310

Polk County Board of Review by eFile